



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,867	10/26/2001	Aleksei V. Gershun	PRE/5	5612

1473 7590 07/22/2003
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

EXAMINER

WEBB, GREGORY E

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 07/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/046,867

Applicant(s)

GERSHUN ET AL.

Examiner

Gregory E. Webb

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-37 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. The various terms defining the surfactants suitable for use in the instant invention are not defined by the applicant. These terms are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.
4. The examiner has no means of determining the chemical structure of these claimed surfactants. Furthermore, trademarks do not necessarily define a formula as the manufacturer may change the formulation while still maintaining the original trademark. In other words, what is an alcohol ethoxylate at the time of filing might be a wholly different surfactant at the time of examination. Or a family of compounds such as the Triton series might in future times include a variety of compounds unknown to science at the time of filing. Surely such new compounds would not fall under the scope of the applicant's claims as they did not exist at the time of filing.
5. It is therefore suggested that the applicant remove the trademarks from the claims and replace these with specific chemical terms from the specification which define the structure of these compounds (i.e. alcohol ethoxylates, quaternary ammonium compounds, etc.; further noting that the applicant is bound to the details of the specification as filed.)

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6, 8-20, 22-25, 27-31, 33-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Cable (US 6,432,897).

8. Cable teaches in table I compositions containing 2.5% ethylene glycol monobutyl ether (alcohol), 0.05 diphenyl oxide disulfonate (anionic surfactant), and 0.04998% ammonia.

9. Concerning claim 11, Cable generally teaches the use of ammonium hydroxide in amounts ranging from 0.01-1% of the cleaner (see col. 7, lines 30-40).

10. Concerning claims 14-17, the broadly defined class of alcohols as defined by claim 1 includes various surfactants compounds taught by Cable including alkoxyated alcohols which are used in amounts ranging from 0-0.75% and exemplified in an amount of 0.05% in example C.

11. Concerning use and testing claims, Cable teaches the application of these composition to control panels, wiping the panel, and visually checking the performance (noting that any visual inspection would result in broadly determining effectiveness and rate of penetration as these are key indicators of any cleaning process; noting that the applicant has not defined how these steps are performed and what accuracy is required). Cable teaches the use of this composition on glass and other glossy hard surfaces.

Art Unit: 1751

12. Claims 1-6, 8-20, 22-25, 27-31, 33-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Choy (US 5,851,981).

13. Choy teaches a composition in table I containing 0.05% ammonia and 0.005% sodium lauryl sulfate (surfactant).

14. Choy teaches the use of various surfactants including alcohol ethoxylates (alcohol; see col. 6) in amounts ranging from 0.002-0.75% (see col. 7). Choy teaches the amount of ammonium to range from 0.01-2% of the composition.

15. Concerning the testing claims, Choy teaches testing methods including applying the surfactant, removing the residue, and testing the performance (see cols. 10-11).

16. Claims 1-6, 8-10, 12-20, 22-25, 27-31, and 33-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Masters (US 5,362,422).

17. Masters teaches in example I a composition containing glycol ethers, 0.4% ammonium hydroxide, and surfactants.

18. Masters generally teaches the solvent for use in amounts ranging from 1-10% for dilute compositions. Masters generally teaches the use of alcohols and glycol ethers as these solvents including C1-C4 alcohols (see col. 7).

19. Masters generally teaches the surfactant to be used in amounts ranging from 0.1 to 5% surfactant.

20. Masters generally teaches the use of monoethanolamine and beta amino alkanols including (an alcohol; see formula line 55) in amounts ranging from 0.05-2% or preferably from 0.2-5% (see col. 5).

Art Unit: 1751

21. Masters teaches various methods of use including applying, wiping and removal of the cleaner and particulates (see cols. 13-14).

22. Claims 1-4, 6-20, 22-24, 28-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al (US 4,673,523).

23. Smith teaches in claims 1, 8, and 11 a composition containing an anionic surfactant, 0.05-0.75% triethanolamine (alcohol and ammonia compound), and 0.1-1% propylene glycol (alcohol). In table I, Smith teaches the anionic surfactant in amounts of 0.1% and the use of 2-butoxyethanol in amounts of 0.5%.

24. Smith teaches various uses, methods, and tests including cleaning mirrors, windows, windshields (see cols. 1-2). Smith teaches the test of these compositions in col. 8 noting that the composition is applied, rubbed and removed while being visually inspected.

25. Claims 1-4, 6-20, 22-24, 28-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Church (US 4,315,828).

26. Church teaches in table XII a composition containing 0.16% 1-propanol (alcohol), 0.1% ammonium hydroxide, and 0.018% surfactant.

27. Concerning the use Church teaches the following: " This invention is directed to new and novel highly efficient liquid compounds for cleaning of glass and the like and the method for making same. While principally aimed at the cleaning of windows, mirrors and other objects made of glass, these compounds have been found to be equally useful for the cleaning of polished chromium, stainless steel, porcelain enamels, ceramic, plastics and many other such items that may need to be cleaned of oil, grease, dirt and other contaminants in a similar manner."

28. Concerning the testing procedure Church teaches the following:

(125) The testing procedure consisted simply of cleaning half of the window (such as the right side) with the commercial product and the other half with a

Art Unit: 1751

polyethylene or methoxypolyethylene glycol containing formulation. The comparison was made by noticing differences in clarity due to "fogging" caused by hydrocarbon build-up on the inside window surfaces.

(126) The results of these tests were found to be essentially identical in every instance. Namely, the half of the window cleaned with the commercial product began to show very definite signs of clouding or "fogging" in at least a week's time. In hot weather this often occurred in as little as two days' time. In some instances, the test duration was five to eight weeks in length, at which point the contaminating film build-up on the half cleaned with the commercial window cleaning product was often found to be seriously affecting vision, especially at night with oncoming headlights. In all these direct comparison tests as can be seen in Table XXVII, the half cleaned with one of the polyethylene or methoxypolyethylene glycol containing formulations was always found to be remarkably free from any clouding effects or visual impairment.

(127) These tests were conducted mainly during warm to hot weather and at an elevation of slightly over 7,000 feet. It is suspected that plasticizer outgassing from the interior of the automobile in addition to airborne oil and smoke particles was contributing to the rapid contamination rates noted with the commercial cleaners; however, the test data was felt to be relative in nature and is believed to correctly show the inherent contamination repelling nature of the formulations of this invention.

(128) In this application, all percentages are by weight unless otherwise specified. Deionized water was used in the majority of the formulations included in this application. Tap water of reasonable softness has also been used in many instances, however, with no noticeable degradation of overall properties.

Allowable Subject Matter

29. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

30. The examiner was unable to find a composition containing each ingredient from claim 1 in the weight percentages required by claim 1 with the addition of the specific enzymes of claim

21. Nor does the prior art provide motivation for the incorporation of these compounds.

Art Unit: 1751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory E. Webb whose telephone number is 703-305-4945.

The examiner can normally be reached on 9:00-17:30 (m-f).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

A handwritten signature in black ink, appearing to be 'G. Webb', with a long horizontal line extending to the right towards the printed name.

Gregory E. Webb
Primary Examiner
Art Unit 1751

gw
July 18, 2003